

REMARKS

Reconsideration of this application in light of the present amendment and remarks is respectfully requested.

Claims 1-34 have been rejected.

Claims 1, 15 and 27 have been amended.

Claims 4, 17 and 28 have been canceled.

Claims 1-3, 5-16, 18-17 and 29-34 are pending in this application.

Claims 1, 3-4, 13, 15, 17, 24, 27-28 and 34 were rejected under 35 U.S.C. §102(e) as being anticipated by Shi (US 6,807,163). This rejection is respectfully traversed.

Claim 1 has been amended to incorporate claim 4 to reflect that the measuring performance characteristic is indicative of the time required for the subscriber unit to measure carriers in the frequency band. Thus the measurement performance characteristic will directly relate to the capability of the subscriber unit to perform measurements within the time constraints imposed by the communication system. Therefore, claim 1 has been additionally amended to reflect that the selection of a subset of carriers is further dependent on the time required for the number of receivers of the subscriber unit to measure carriers in the frequency band. In other words, the number of receivers changes the measurement time which tells you how fast the measurements can be made, and this in turn determines how fast one can then choose the subsets. Further support for this can be found in the specification on the last two paragraphs of page 6. In addition, claim 1 has also been amended in accordance with the Examiner's instructions to clarify that selecting a subset of carriers in the frequency band to be measured by the subscriber unit is dependent on the value of the frequency of measurement updates.

As a result, applicant respectfully submits that claim 1 as amended is patentable and non-obvious over the cited art. Similarly, independent claims 15 and 27 have been amended to incorporate all the recitations of amended claim 1, and are therefore deemed patentable and non-obvious as well for the same reasons. Claims 4, 17 and 28 subsequently being canceled.

Shi discloses a mobile unit that dynamically adapts its scanning rate interval (SRI) for measuring received power levels for carriers. The timing for the SRI is changed based upon the carrier measurements. Shi also discloses a short scan interval (SSI) that directs the mobile unit to scan only a subset of the carriers rather than the full list of carriers. The SSI is derived by measuring a power level of a number of channels and determining if there are a certain number of channels above a power threshold value. If there are a certain number of channels above the threshold then the mobile unit is directed, by the SSI, to scan only a subset of the available carriers (column 6 lines 21-40 and column 7 lines 37-45).

However, Shi does not suggest or disclose the elements of the frequency of measurement updates being indicative of the time required for the number of receivers of the subscriber unit to measure carriers in the frequency band, and subsequently selecting a subset of carriers in the frequency band to be measured by the subscriber unit dependent on the value of the frequency of measurement updates and the time required for the number of receivers of the subscriber unit to measure carriers in the frequency band.

Moreover, applicant respectfully submits that the SSI is independent of the SRI, unlike the Examiner's contention. Both the SSI and the SRI are determined from different measurements of the carriers, the SRI from a determination of carrier power levels with reference to the current carrier power level, and the SSI from a determination of carrier power levels with reference to a fixed threshold (i.e. -85dBm from column 6 line 27). As a result the SRI and SSI are independent from each other and can have totally different values. In particular, the default value of SSI is 0 (column 7 line 2) while at the same time the value of SRI can vary from a maximum scanning rate of 0 to a minimum scanning rate of 3 (see Fig. 5 items 532, 530, 526 and 508). As a result, the value of SSI, and therefore the selection of a subset of carriers, could not depend from the scanning rate interval, as recited in applicants' independent claims.

If Shi were to describe applicants' invention, Shi would need to disclose; a) the frequency of measurement updates being indicative of the time required for the number of receivers of the subscriber unit to measure carriers in the frequency band, b) subsequently selecting a subset of carriers in the frequency band to be measured by the subscriber unit dependent on the value of the frequency of measurement updates and the time required for the number of receivers of the subscriber unit to measure carriers in the frequency band, and c) the selecting of a subset of carriers (i.e. SSI) must track the frequency of measurement updates (i.e. SRI), which it clearly does not. Therefore, applicants' respectfully submit that Shi teaches away from applicants' invention.

As a result, applicants respectfully submit that independent claims 1, 15 and 27 are patentable and non-obvious over Shi.

The remaining claims are dependent on their respective amended base claims 1, 15, and 27, and therefore include all of the recitations thereof, which are not disclosed or suggested by the references, and are therefore deemed patentable and non-obvious as well for the same reasons.

Therefore, applicants respectfully request that this rejection be withdrawn.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

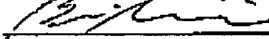
No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection or through an Examiner's amendment.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

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Respectfully submitted,
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